

Gupta / Wessler *Issues & Appeals*

June 2, 2017

*Via Electronic Filing*

The Honorable Michael P. Mills  
United States District Court  
Northern District of Mississippi  
911 Jackson Avenue  
Oxford, MS 38655

**Re: *American Health Care Assoc. et al v. Thomas Price, Secretary of Health and Human Services, Civil Action No. 3:16-cv-233-MPM-RP***

Dear Judge Mills:

Earlier today, the U.S. Department of Justice filed an unopposed motion to dismiss its appeal from this Court's order preliminarily enjoining a federal regulation that bars certain nursing homes from employing pre-dispute arbitration agreements. The Fifth Circuit promptly granted that unopposed request.

In light of the Administration's decision not to defend the rule on appeal, the American Association for Justice and the National Consumer Voice for Long Term Care—amici in the litigation before this Court—intend to file a motion to intervene in these proceedings as soon as possible. Proposed intervenors are concerned, however, that the parties may seek permanent injunctive relief without providing this Court with the benefit of a truly adversarial presentation.

Accordingly, this Court may wish to refrain from ruling on any substantive motions (including any request for a permanent injunction) until the amici have had a reasonable opportunity to seek intervention. As we will explain in our forthcoming motion, the proposed intervenors have a direct and substantial interest in the outcome of this litigation. “[I]ntervention ordinarily should be allowed unless it is clear that the party will provide adequate representation for the absentee.” 7C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1909 (3d. ed.). Here, movants intervene to assume the adversary role formerly discharged by the federal government.

Respectfully submitted,  
s/ Deepak Gupta  
Deepak Gupta

*Counsel for Amici Curiae American Association for  
Justice and The National Consumer Voice for  
Quality Long-Term Care*